

The legal status of parents of a child in case of the child's adoption

Abstract

The thesis is concerned with adoption, focusing primarily on the legal status of child's parents during adoption proceedings. It aims to highlight the current problems, which stem not only from the incompleteness and ambiguity of the legislation, but also from its application in practice. When analyzing the particular topics, I relied on professional publications and commentaries on laws, which I compared with the actual articles in selected journals and the current jurisdiction, which, however, is not too rich in this area. Practical side was consulted with Dr. Zarasova - an employee of the Department of Social and Legal Protection of Children in Ministry of Labour and Social Affairs.

The work consists of an introduction, five successive chapters and a conclusion. The first chapter defines the basic terms that are often used in practice and the definition of which is often not entirely clear - children, parents and family. In addition, this chapter addresses the concept of substitute family care and introduces some of its forms, which the law in the Czech Republic offers. As an overview, several international and year-to-year comparisons are also listed.

The second chapter investigates the actual adoption in more detail. It explains its nature and clarifies the conditions that the law requires for the adoption's successful course - focusing on the applicant and future adopted child. Attention is paid to the joint adoption of a child by a married couple, with discussion on adoption by registered partners and same-sex couples. Furthermore, both current adoption options are introduced - adoption of first stage, also called cancellable, and adoption of the second stage, known as indefeasible. The possibility of conversion of the first type to the second is also discussed.

Legal status of the child's parents, as a major subject of the work, is analyzed in the third chapter. The first part defines the addressed consent to adoption, how it is conditioned and possibilities of its revocation. Separately the work deals with the

consent of an underage parent. The second part of the chapter describes a situation where consent to adoption is not required or where a so-called blanket consent is granted – without a relation to the particular adopter. This part also discusses underage parents and their status being far from clear, which causes considerable problems in practice. The last part of this chapter is dedicated to the guardian's consent, child's consent and the necessity of consent when the adoption is transformed.

The fourth chapter provides information on the procedural aspects, with the main emphasis placed on the status of the child's parents in the proceedings – in the process of determining whether a child's parents must consent to its adoption, and in the adoption proceedings themselves.

The final chapter in this work deals with so-called “secret births” and baby boxes. This is a very actual topic which is subject of fierce debates among the experts and the public, both social-wise and ethical-wise. I believe that these topics are closely related with the legal status of parents. The law tends to tolerate these institutions rather than to regulate them. Further, it does not even offer a satisfactory answer to the question who are the parents of the child, let alone to govern their legal status.

The work offers a perspective of the current adoption legislation, its nowadays issues and outline of their possible solutions. The biggest problem seems to be inconsistent amendments of certain laws, on which other laws depend where the amendments have not been reflected. The best solution would, in my opinion, be a new act, that would consolidate all the related provisions and thus eliminate the discrepancies mentioned.